

General Information Letter: Illinois follows federal rules for common pay agents.

September 27, 2002

Dear:

This is in response to your letter dated August 30, 2002, in which you request a legal opinion. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state in part as follows:

COMPANY is investigating procedures to put into place pay agent reporting of state copies of the federal form W-2. A common pay agent would be one company filing W-2s (using the common pay agent's EIN in box "b" of the W-2) for several related companies. Box "c" of the W-2 would show the common pay agent's name and address along with a notation "Agent for XYZ company" on the second line.

The answers to the following questions will be beneficial to COMPANY in meeting year end filing procedures for 200.

- 1) Will your state allow common pay agent reporting of federal form W-2?
- 2) If **yes**, then will there be any special reporting requirements for the 2002 W-2 (paper or magnetic media)?
- 3) If **no**, can you please provide state issued documentation that would clearly show that this is prohibited?

In response to your Question 1 of your correspondence, please be advised that the Department allows common pay agent reporting, and adheres to federal guidelines regarding this method.

Regarding your Question 2, due to Illinois Income Tax Regulation Section 100.7300 (b)(1), effective 2/6/95, federal form W-2 need no longer be filed with the Illinois Department of Revenue. Copies of employee W-2s must however be retained for a period of three years and must be furnished to the Department within 30 days after receiving a written request for production thereof.

Non-legal questions regarding common pay agent reporting may be directed to Norman Clark, of the Department's Central Registration Bureau. His phone is 217-785-2785. Technical questions

regarding withholding may be directed to Brenda Evans, of the Department's Taxpayer Assistance Division. Her phone is 217-785-1396.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 *Ill. Adm. Code Part 1200*.

Sincerely yours,

Jackson E. Donley,  
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